

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4317 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

LODHA MANSING HARPAL

Versus

STATE OF GUJARAT

Appearance:

MR DF AMIN for Petitioner
Mr.Digant P. Joshi, ASSTT GOVERNMENT PLEADER for
Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 28/04/2000

ORAL JUDGEMENT :

The present petition is filed by the petitioner against an order dated 27.4.1987 passed by the Secretary (Appeal), Revenue Department, Government of Gujarat (Annexure 'D'). It is the contention of Mr.Amin, the learned advocate for the petitioner that the said order is passed on the basis that the petitioner had not mentioned the purpose for which "Non Agricultural" (NA) permission was sought for. On that short ground, the NA

permission granted by the subordinate authorities came to be cancelled by the impugned order dated 27.4.1987.

2. Mr.Amin could point out to this Court that in response to the show cause notice dated 9.12.1986, Annexure 'B' to this petition, the petitioner had filed a reply in February 1987, Annexure 'C' to this petition. In that reply, the petitioner had set out all the details. This particular point regarding the purpose for which NA permission was prayed for is also mentioned. Mr.D.F. Amin, the learned advocate for the petitioner has pointed out that even in the order passed by the Taluka Panchayat dated 16.9.1995, which is produced at Annexure 'A', it is clearly mentioned in para 14 that the NA permission is granted for the purpose of putting up cottage industries. In light of that particular mention in the order granting NA permission, the impugned order passed by the authority is clearly vitiated as it is passed without proper application of mind.

2. In light of these facts, the order in question dated 27th April 1987 is hereby quashed and set aside. However, it is made clear that this quashing and setting aside of the impugned order will not be a bar to the respondent authorities to pass a fresh order, if any legal ground is available to them.

3. With the aforesaid observations the petition is allowed. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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